

FILED
SECURITIES DIVISION

AUG 26 2010

INDIANA
SECRETARY OF STATE

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE
SECURITIES DIVISION

IN THE MATTER OF:

JEFFEREY LYNN SMITH AND
WELLINGTON FINANCIAL,

Respondents.

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) CAUSE NO.: 10-0266 CD
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CEASE AND DESIST ORDER

Petitioner, the Staff of the Office of the Indiana Secretary of State, Securities Division, has filed an Administrative Complaint against Respondents Jefferey Lynn Smith ("Smith") and Wellington Financial, alleging violations of the Indiana Securities Act ("Act"), Ind. Code 23-2-1 (2006) and/or the Indiana Uniform Securities Act ("Uniform Act"), Ind. Code 23-19, which became effective July 1, 2008, and requesting, inter alia, that Respondents be ordered to cease and desist from violating the Uniform Act, in the future.

Pursuant to Ind. Code § 23-2-1-17.1(a) (2006) and Ind. Code § 23-19-6-4, the Securities Commissioner ("Commissioner") may issue a cease and desist order without a hearing if there exists a substantial threat of immediate irreparable harm whenever it appears to the Commissioner, upon investigation, that a person has engaged in or is about to engage in an act or practice constituting a violation of the Act.

Based upon the information presented, it appears to the Commissioner that Respondents Smith and Wellington Financial engaged in acts constituting violations of the Act. Therefore, grounds exist under the Act to order Respondents Smith and Wellington Financial to

immediately cease and desist from violating the Act. The Securities Commissioner hereby determines that this Cease and Desist order is in the public interest.

The Commissioner therefore ORDERS that Respondents Smith and Wellington Financial immediately CEASE AND DESIST from selling unregistered securities in the state of Indiana from approximately, in violation of Ind. Code § 23-19-3-1.

The Commissioner ORDERS that Respondent Smith immediately CEASE AND DESIST from offering and/or selling securities without registration as an agent in the state of Indiana from approximately, in violation of Ind. Code § 23-19-4-2.

IT IS FURTHER ORDERED that Respondents Smith and Wellington Financial shall file an answer to the Administrative Complaint within fifteen (15) days following the date of her receipt of the service of this Order. Respondents Smith and Wellington Financial shall be deemed to be in default if an answer is not filed within the time provided.

Pursuant to Ind. Code § 23-19-6-4, upon written request, this matter will be set for a hearing, commencing within forty-five (45) business days after the receipt of the request.

ORDERED at Indianapolis, Indiana, this 26TH day of AUGUST, 2010.



TODD ROKITA
SECRETARY OF STATE

CHRIS NAYLOR
INDIANA SECURITIES COMMISSIONER

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

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ADMINISTRATIVE COMPLAINT

I. NATURE OF THE ACTION

1. From approximately January of 2004 to November of 2009, Jefferey Lynn Smith ("Smith") and Wellington Financial offered and/or sold securities in the form of investment contracts to at least six (6) persons although the securities were not registered or exempt from registration in the state of Indiana, in violation of Ind. Code § 23-2-1-3 (2006) and/or Ind. Code § 23-19-3-1.
2. By virtue of his conduct as alleged herein, Smith and Wellington Financial have committed violations of the Indiana Securities Act ("Act"), Ind. Code 23-2-1 (2006) and/or the Indiana Uniform Securities Act ("Uniform Act"). The Uniform Act became effective on July 1, 2008.
3. The Indiana Securities Commissioner ("Commissioner") brings this civil enforcement action for a judgment: (a) finding as fact the allegations set forth in the Administrative Complaint; (b) ordering Respondents to show cause why administrative penalties should not be levied against them; (c) ordering Respondents to immediately and permanently Cease and Desist from violating any provision of the Act; (d) ordering Respondents to pay restitution of actual

damages, plus interest thereon at the rate of eight percent (8%) per year from the dates of investment, to all investors who were damaged by the violations; (e) barring Respondents from engaging in the securities industry permanently; (f) imposing a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for each violation of the Act committed by Respondents; (g) ordering Respondents to pay the costs of the investigation of this matter; (h) finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Indiana investors; and, (i) granting such other and further relief as the Commissioner deems appropriate.

II. STATEMENT

4. The Staff of Office of the Secretary of State, Securities Division (“Staff”), files this Administrative Complaint to commence an adjudicative proceeding against Smith and Wellington Financial for violating the Indiana Securities Act, Ind. Code 23-2-1 (2006) and/or the Indiana Uniform Securities Act, Ind. Code 23-19.
5. This is an enforcement action arising from multiple violations of state securities laws by the Respondents.

III. JURISDICTION AND AUTHORITY

6. The Securities Division (“Division”) is a division of the Office of the Secretary of State with jurisdiction over matters relating to securities, as provided by the Act and Uniform Act. The Act and Uniform Act authorize the Division to regulate: 1) the offer and/or sale of securities; 2) those individuals offering and/or selling securities; and 3) prohibit fraud in connection with the offer and/or sale of securities.
7. The Division brings this action pursuant to the enforcement authority conferred upon it by Ind. Code § 23-2-1-15, Ind. Code § 23-19-6-1, and 710 IAC 1-19, wherein the Division has

the authority to conduct an adjudicative proceeding to enforce the provisions of the Act, Uniform Act, and all Rules promulgated thereunder.

8. The actions and practices constituting the violations occurred in Indiana.
9. The Division reserves the right to amend this Administrative Complaint and/or file additional Administrative Complaints to reflect information developed during an ongoing investigation.

IV. RESPONDENTS

10. Upon information and belief, Wellington Financial is a sole proprietorship with a last known business address of 4003 Nottingham Drive, Fort Wayne, Indiana 46815.
11. Upon information and belief, Jefferey Lynn Smith is the owner of Wellington Financial, with a last known business address of 4003 Nottingham Drive, Fort Wayne, Indiana 46815.

V. VIOLATIONS OF THE INDIANA SECURITIES ACT

COUNT ONE

Sale of Unregistered Securities in Violation of Ind. Code § 23-2-1-3 (2006) and/or Ind. Code § 23-19-3-1

12. This section incorporates by reference all preceding sections and paragraphs.
13. Under the Act,

It is unlawful for any person to offer or sell any security in Indiana unless:

- (1) it is registered under this chapter;
- (2) the security or transaction is exempted under section 2 of this chapter; or
- (3) it is a federal covered security

Ind. Code § 23-2-1-3 (2006).

14. The Act defines a security as a “note, stock, ... investment contract” Ind. Code § 23-2-1(k) (2006).
15. Under the Uniform Act,

It is unlawful for any person to offer or sell any security in Indiana unless: (1) the security is a federal covered security; (2) the security, transaction, or offer is exempted from registration under Ind. Code § 23-19-2-1 through Ind. Code § 23-19-2-3; or the security is registered under this article.

Ind. Code § 23-19-3-1.

16. The Uniform Act defines a security as a “note; stock; ... investment contract; ... put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof....” Ind. Code § 23-19-1-2(28).
17. Under the Act, the terms “sale” or “sell” are defined as “an attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.” Ind. Code § 23-2-1(i)(1) (2006).
18. Under the Uniform Act,

“Sale” includes every contract of sale, contract to sell, or disposition of a security or interest in a security for value, and "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value. Both terms include:

 - (A) a security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing constituting part of the subject of the purchase and having been offered and sold for value;
 - (B) a gift of assessable stock involving an offer and sale; and
 - (C) a sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer and a sale or offer of a security that gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, including an offer of the other security.
- Ind. Code § 23-19-1-2(26).
19. From approximately January of 2004 to November of 2009, Smith and Wellington Financial offered and/or sold securities in the form of investment contracts to at least six (6) persons

although the securities were not registered or exempt from registration in the state of Indiana, in violation of Ind. Code § 23-2-1-3 (2006) and/or Ind. Code § 23-19-3-1.

20. Based on the foregoing representations, Smith and Wellington Financial sold unregistered securities in the state of Indiana from approximately January of 2004 to November of 2009, in violation of Ind. Code § 23-2-1-3 and/or Ind. Code § 23-19-3-1.

COUNT TWO
Failing to Register as an Agent
in Violation of Ind. Code § 23-2-1-8(a) (2006) and Ind. Code § 23-19-4-2

21. This section incorporates by reference all preceding sections and paragraphs.
22. “It is unlawful for a person to transact business in Indiana as a broker-dealer or agent unless the person is registered under this chapter.” Ind. Code § 23-2-1-8(a) (2006)
23. An “agent” is “an individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.” Ind. Code § 23-2-1-1(b) (2006).
24. “It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this article as an agent or is exempt from registration as an agent under subsection (b).” Ind. Code § 23-19-4-2.
25. An “agent” is an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer's securities.” Ind. Code § 23-19-1-2(1).
26. From approximately January of 2004 to June 30, 2008, Smith represented Wellington Financial in offering and/or effecting sales of securities to at least three (3) persons.

27. From approximately July 1, 2008, to November of 2009, Smith represented Wellington Financial in offering and/or effecting sales of securities to at least three (3) persons.
28. A due and diligent search of the records of the Division confirms that Smith was at no time registered, or exempt from registration, as an agent in the state of Indiana.
29. Smith is a person who represented Wellington Financial in effecting sales of securities without registration as an agent in the state of Indiana from approximately January of 2004 to June of 2008, in violation of Ind. Code § 23-2-1-8(a).
30. Smith is a person who represented Wellington Financial in offering to sell and effecting sales of securities without registration as an agent in the state of Indiana from approximately July of 2008 to November of 2009, in violation of Ind. Code § 23-19-4-2.

VI. RELIEF REQUESTED

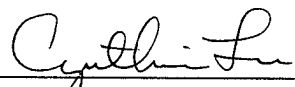
Wherefore, the Division respectfully requests that the Commissioner take the following actions:

- a) Find as fact the allegations set forth in the Administrative Complaint;
- b) Order Respondents to show cause why administrative penalties should not be levied against them;
- c) Order Respondents to immediately and permanently Cease and Desist from violating any provision of the Act;
- d) Order Respondents to, jointly and severally, pay restitution to investors and to pay pre-judgment interest thereon at the rate of eight percent (8%) per year from the initial dates of investment;
- e) Bar Respondents from engaging in the securities industry in Indiana permanently;
- f) Impose a civil penalty in an amount not to exceed Ten Thousand Dollars (\$10,000) for each violation of the Act committed by Respondents;

- g) Order Respondents to, jointly and severally, pay the costs of the investigation of this matter, pursuant to the Act;
- h) Find that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Indiana investors; and,
- i) Grant such other and further relief, as the Commissioner deems appropriate.

Respectfully submitted,

INDIANA SECRETARY OF STATE
SECURITIES DIVISION

By: 
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